

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

WP(C).No. 23749 of 2006(B)

OS.1472/2005 of I ADDL.M.C.,ERNAKULAM

PETITIONER:

**PRINGOTUKARA NAMBOODIRI YOGAKSHEMA
SABHA, ANTHIKKAD, THRISSUR DISTRICT,
REPRESENTED BY ITS SECRETARY,
MR.K.J. SREEKUMAR.**

**BY ADV. SRI.V.R.KESAVA KAIMAL
SRI.N.M.MADHU**

RESPONDENTS/ DEFENDANTS:

- 1. K.N. BHASI, KUPPAYIL HOUSE,
THIRUVAMKULAM, KANAYANNUR TALUK.**
- 2. M.C. GEORGE, MUTTATHU HOUSE,
VACHANAM VIVAS, TRIPUNITHURA.**
- 3. M.T. GEORGE, MUTTATHU HOUSE,
TRIPUNITHURA.**
- 4. K.K. SATHEESAN, KOLLASSERIL HOUSE,
THIRUVANKULAM, KANAYANNUR TALUK.**

**R1 BY ADV. SRI.K.MOHAN(JAGATHY)
SRI.G.JAYANANDA PAI
SRI.BAIJU JOSEPH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

- EXT. P1 PHOTOCOPY OF PLAINT IN O.S.1472/05 OF MUNSIFF COURT,
ERNAKULAM.
- EXT.P2 PHOTOCOPY OF THE PRONOTE EXECUTED BY THE RESPONDENTS IN
FAVOUR OF THE PETITIONER.
- EXT.P3 PHOTOCOPY COPY OF PROFF AFFIDAVIT FILED BY THE PETITIONER IN
O.S.1472/05.
- EXT.P4 TRUE EXTRACT OF THE ORDER DATED 8/7/06 IN O.S.1472/05
PASSED BY THE 1 ADDL. MUNSIFF COURT, ERNAKULAM.

[True copy]

P.A. to Judge.

M.N. KRISHNAN, J.

= = = = =

W.P.C. NO. 23749 OF 2006

= = = = =

Dated this the 30th day of January, 2007.

J U D G M E N T

This writ petition is filed to quash Ext.P4 order passed in O.S.1472/05. The suit is one for realisation of the amount due under a promissory note and it is contended by the learned counsel that the rate of interest stipulated in the promissory note is 21% whereas the Court has directed him to file a statement calculating the interest at 12%. He is totally aggrieved by that decision .

2. At the out set I may like to point out that the learned Munsiff should not have directed him to file a statement of that nature because the Court has to apply the principles of law after hearing both sides and consider what is the interest to be awarded. I am not expressing anything on merit on the case for the reason that the matter is pending before the trial court. Just because the plaintiff has filed a statement it should not be taken as a concession granted by the plaintiff regarding the rate of interest and the learned Munsiff is directed to consider the

WPC 23749 OF 2006

-.Page numbers:-

argument canvassed regarding the rate of interest by the plaintiff
in accordance with law and decide the case accordingly.

The writ petition is disposed of accordingly.

M.N. Krishnan, Judge.

ul/-